California Regional Water Quality Control Board
North Coast Region
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Agency Secretary

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Arnold Schwarzenegger
Governor

June 6, 2005

Mr. Richard Burtt
Town of Windsor
P.O. Box 100
Windsor, CA 95492-0100

Dear Mr. Burtt:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Mitchell/Shiloh/Conde Assessment District Road Widening Project

File: Mitchell/Shiloh/Conde Assessment District Road Widening Project, WDID No. 1B04050WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). On May 4, 2004, the Regional Water Board received an application from Mr. Dane Schilling, on behalf of the Town of Windsor, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Mitchell/Shiloh/Conde Assessment District Road Improvements Project in Sonoma County.

Information describing the proposed project was noticed for public comment on the Regional Water Board's website for a 21-day period beginning August 11, 2004. One public comment was received and it addressed the adequacy of the Town's proposed plan for monitoring vegetation planted along the streambanks to replace vegetation that was removed. The Town addressed the commenter's concerns in its amended streambank mitigation and monitoring plan, dated October 25, 2004 and submitted to the Regional Water Board on January 21, 2005.

On December 29, 2004, the North Coast Regional Water Quality Control Board (Regional Water Board) issued a Denial without Prejudice for the proposed project due to the lack of the following items required to facilitate the complete review process of the application package and finalize a decision for Certification:

- Additional filing fees
- A final streambank mitigation and monitoring plan to offset impacts to waters of the State, and addressing a comment received during the 21-day public notice period
- Specific post-construction storm water Best Management Practices (BMPs) to be incorporated into the final project design to achieve treatment of the storm water runoff.

- Final CEQA document for the proposed project

Additional information that completed the application was received by the Regional Water Board on January 21, 2005 and May 25, 2005. The proposed project causes disturbances to waters of the state associated with Pool and Pruitt Creeks, which are tributary to Windsor Creek, in the Russian River Hydrologic Unit No. 114.00 and Mark West Hydrologic Sub Area No. 114.23.

Project Description:

The proposed project is located in the Town of Windsor in north-central Sonoma County in the northwest ¼ of Section 19, T8N, R8W and the northeast 1/4 Section 24, T8N, R9W of the Healdsburg, CA USGS 7.5-minute quadrangle. The various developers along Mitchell Lane, Shiloh Road, and Conde Lane have formed an Assessment District. Assessment District funds will be used by the Town of Windsor to improve portions of three roadways: Mitchell Lane, Shiloh Road and Conde Lane located west of Highway. The purpose of the project is to improve traffic flow and safety.

The proposed project consists of the construction of roadway improvements involving widening and expansion of roadway segments including, new traffic lanes, curbs, gutters, sidewalks, drainage facilities, utilities, street lights and landscaping. Drainage improvements include the removal of two bridges and a box culvert, and construction of new concrete arch culverts, one along Pool Creek and two along Pruitt Creek. Improvements also include: 1) MITCHELL LANE – Road widening to 40 ft. in width; 2) CONDE LANE – Road widening up to 68 ft. in width (2 – 20’ wide travel ways, separated by a 28’ wide median to preserve existing oaks); and 3) SHILOH ROAD – Road widening to 66 ft. in width (4 travel ways, 2 lanes in each direction separated by a 12’ wide landscaped median).

According to the applicant, the three existing structures at the road/creek crossing locations (Pruitt Creek at Shiloh Road, Pruitt Creek at Conde Lane, and Pool Creek at Conde Lane) will be removed and replaced with new arch culverts. In addition, the creeks will be widened and the road profiles will be raised to accommodate the 100-year flood event. The bottom of the arch culverts will be lined with rock riprap to protect the creek bottom from erosion. The new structures will be bottomless Conspan-type pre-cast arches set on cast-in-place concrete footings. Concrete wing walls and rip-rap bank protection will be constructed upstream and downstream of the new arches, and a retaining wall will be constructed on Shiloh Road to preserve native trees along the top of bank of the creek. A low-flow channel will be

constructed along the entire length of creek within the project area to allow for fish passage. The dimensions of the existing and new structures crossing the creeks are summarized in the following table:

Summary Comparison of Creek Crossing Structures				
Location		Length (ft)	Width (ft)	Height (ft)
Pool Creek at Conde Lane	Existing *New*	30 *204*	20 *36*	8 *9*
Pruitt Creek at Conde Lane	Existing *New*	22 *54*	17.5 *36*	7.5 *9*
Pruitt Creek at Shiloh Road	Existing *New*	55 *144*	17 *2 x 24*	5.5 *7*

Work related to removal of the existing box culverts, the placement of the arch culverts, riprap protection, and construction of the
low-flow channel will require access to the creek channel. Creek banks upstream and downstream of the new arch culverts will be graded to transition in and out of the new culvert. The contractor will access the creeks by grading ramps to the channel bottom where the wingwalls and transitional slope grading will occur. Thus, no additional areas will be disturbed to accommodate construction access to the creeks.

Due to the late rainfall during the spring of 2005, the Town anticipates that installation of the new arch culverts will require draining any water remaining in the creeks after June 15th. The Town proposes to employ coffer dams and a bypass pipe to accomplish this. Coffer dams would be removed once the remaining water in the creeks dries up. Regional Water Board staff have notified the Town's consultant that a report must be submitted for Regional Water Board Executive Officer approval prior to initiating work near the stream. The report must include a detailed dewatering plan, monitoring plan, and BMPs that will be implemented to protect water quality during removal of the existing box culverts and installation of the arch culverts. Instream work is restricted to between June 15 and October 15. If the operator needs more time to complete the authorized activity, they will contact the Regional Water Board for a time extension to this Order.

Adhering to the construction schedule, BMPs and mitigation measures identified in this permit should minimize impacts to Pool and Pruitt Creeks.

Receiving Water: Pool Creek and Pruitt Creek which are tributary to Windsor Creek in the Russian River Hydrologic Unit No. 114.00 and Mark West Hydrologic Sub Area No. 114.23.

Filled or Excavated Area:

Total Area Impacted: 0.2 acres of wetland habitat
Area Temporarily Impacted: 0.18 acre
Area Permanently Impacted: 0.02 acre

Total Linear Impacts: 1,043 linear feet impacted
Length Temporarily Impacted (Restored): 1,043 feet
Length Permanently Impacted (Not Restored): 0.000 feet

Compensatory Mitigation Overview:

Total Mitigation Area:	0.10 acre
Wetland Created/Restored:	0.05 acre
Wetland Preserved:	0.05 acre
Wetland Enhanced:	0.00 acre
Wetland Existing (Avoided)	0.00 acre

Stream Restored:	0.04 acre
Stream enhanced:	0.12 acre

Compensatory Mitigation: Compensatory mitigation for this project will be attained for the loss of the 0.02 acre of wetland as well as for impacts to the stream, as described in the following paragraphs.

The Town of Windsor has purchased 0.05 acres of wetland creation credit in the Sonoma County Airport Consolidated Wetlands Mitigation Area (SACMA) wetland mitigation bank and an additional 0.05 acres of wetland preservation credit in the Wright Mitigation Bank. The application contains the proof of purchase for both the creation and preservation credits.

Pool Creek and Pruitt Creek do not support wetland vegetation, or supports only small patches of emergent wetland vegetation. Therefore, work within the creeks does not involve any impacts to wetlands. However, the project also causes an additional 0.18 acres of impacts related to fill in the area of the three culvert replacements, bank slope protection associated with the culvert replacements, and tree removal necessary to accommodate

installation of the new arch culverts. Other potential stream impacts include temperature increase due to removal of canopy, increased sedimentation due to grading, increased flow due to drainage of larger impervious area created by the project, increase in storm water pollutant loading and loss of habitat complexity. There is limited canopy cover over most of the creeks. However, the west side of Pool Creek at Conde Lane and the west side of Pruitt Creek at Conde Lane does support a canopy of willows. A riparian planting plan has been designed and will be implemented to restore the canopy cover for the creeks. Willow and valley oak trees will be replaced using a minimum ratio of 3:1 replacement to loss. For Pruitt Creek and Conde Lane, a minimum of 48 willows and 18 valley oaks will be planted to replace trees that will be removed. For Pool Creek at Conde Lane a minimum of 300 willows and 6 valley oaks will be planted. For Pruitt Creek at Shiloh Road, a minimum of 60 willows and 6 valley oak will be planted. The entire rock slope protection area will be planted with willows and valley oaks to restore these banks to the native plant community and to provide cover and shade for the creek. Willows will be planted using a willow mattress, willow wattling, or some approved biotechnological technique. The willow mattress or wattling requires that the rock slope protection be covered with soil and then planted using willow poles, preferably from trees within the area, planted in bundles along the slope. Willows will sprout from the willow bundles and must be properly installed. A qualified native plant restoration firm will be contracted to install the native plant restoration for the creek banks. Valley oaks will be planted using native tree stock adapted to the site conditions. Planting will be installed in the late fall or early winter, but no later than February 15th.

Additional tree and shrub restoration, as described in the October 25, 2004 Circuit Riders Productions letter to Dane Schilling, Town of Windsor regarding *Additional Mitigation for Mitchell/Shiloh/Conde Improvement Project*, is planned on Pruitt Creek at the north east intersection of Shiloh Road and Conde Lane to enhance the creek. Seventy-five native riparian trees and shrubs (including Valley oak, Buckeye, Coast live oak, Oregon ash, Coyote bush, California rose and Blue elderberry) will be planted in a 5,000 square foot area along the south bank and flood plain. The design will be created by an ecological restoration professional and the planting will be installed by a restoration contractor with a minimum of five years experience in ecological restoration project implementation. The planting will be performed in the winter of 2005.

The plantings will be monitored for a minimum of 3 years. The plantings will be considered successful if 75 percent of the planted trees and shrubs survive. All tree and shrub plantings will be watered for at least one year after installation. They will be watered during the dry season, which is typically from May to October. They will either be hand-watered or a drip irrigation system will be installed. The plantings will be installed with a weed mat. All plantings will also have a protective screen placed around the willow pole or tree sapling to protect it from browsing. Quarterly maintenance visits will be conducted for the first year. During the maintenance visits the plantings will be watered, weeded and checked for survival. If the 75 percent survivorship is not obtained in the first 3 years, additional plantings will be installed until the success criteria are met.

Noncompensatory Mitigation: Non-compensatory mitigation measures to be implemented to minimize potential adverse effects include:

- the installation of a temporary bypass to de-water the work area,
- a limited work window of between June 15 and October 15,
- no heavy equipment in the active creek channel,
- presence of a qualified fishery biologist during work in isolated sections of flowing stream to salvage and relocate any fish/aquatic species,
- use of construction protective netting beneath and extending outboard of the limits of the new bridge to catch minor construction debris,
- the use of erosion control BMPs,
- and implementation of post-construction storm water BMPs as described in the May 25, 2005 letter from Coastland Civil Engineering, titled Mitchell/Shiloh/Conde Road Improvements (WDID No. 1B04050WNSO) – Post Construction Storm Water Plan.

Federal Permit: U.S. Army Corps of Engineers Clean Water Act Section 404 Nationwide Permit 14 – *Linear Transportation* Projects and Nationwide Permit 33 – *Temporary Construction, Access, and Dewatering*, dated July 6, 2004, and pending 404 permit modification to authorize creek dewatering in work areas (File No. 26835N). (File No. 26835N).

Other State Permits: Department of Fish and Game, Section 1602 Lake and Streambed Alteration Agreement, dated December 2, 2004 (Notification No. 1600-2004-0289-3)

CEQA Compliance: The Town of Windsor, as the lead California Environmental Quality Act (CEQA) agency, has determined that this project qualifies for Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration for the Mitchell/Shiloh/Conde Assessment District Project was adopted on January 7, 2004 (Resolution No. 1572-04).

Standard Conditions: Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.

2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions: Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.

2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature shall be allowed to enter into or be

placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream.

3) Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the United States. At no time shall the applicant use any vehicles or equipment, which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the United States.

4) BMPs for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.

5) Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The disturbed portions of any stream channel shall be restored to as near their original condition as possible.

6) If flowing water is present in Pruitt Creek or Pool Creek at the time of construction, the work site shall be dewatered through the installation of sandbag and/or gravel cofferdams, and a by-pass pipe sufficient to handle any discernable flow changes, above and below the project reach. Installation of the cofferdams and the by-pass pipe shall be performed in a manner that will minimize entrapment of aquatic organisms within the dewatered area.

7) The Applicant shall submit a written report describing the dewatering plan and BMPs that will be implemented to protect water quality during removal of the existing bridges and box culvert and installation of the arch culverts, and a monitoring plan that will be implemented to demonstrate that there are no adverse impacts to water quality as a result of construction activities. This report shall be submitted for Executive Officer approval at least two weeks prior to initiating construction work associated with bridge/culvert replacement.

8) The Applicant shall implement post-construction storm water BMPs as described in the May 25, 2005 letter from Coastland Civil Engineering, titled Mitchell/Shiloh/Conde Road Improvements (WDID No. 1B04050WNSO) – Post Construction Storm Water Plan.

9) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.

10) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.

11) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter and shall forward a copy of the letter to the Regional Water Board at the above address.

    To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

12) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.

13) The issuance of this permit is expressly conditioned upon the applicant's compliance with all federal and state environmental laws, and may be revoked if any violations occur.

14) The project applicant shall implement compensatory mitigation associated with the culvert replacement as proposed in the application package and as outlined in the Compensatory Mitigation Section of this Order. All activities associated with streambank mitigation, and subsequent maintenance and monitoring, shall adhere to the methods described in the

application and in the October 25, 2004 letter from Circuit Riders Productions to Dane Schilling, Town of Windsor, titled *Additional Mitigation for Mitchell/Shiloh/Conde Road Improvement Project*.

Yearly monitoring reports for the required streambank compensatory mitigation shall be provided to the Regional Water Board by July 15 during each calendar year for a total of three years. Reports shall include photo documentation of the on-site mitigation areas.

After three years have passed, the streambank mitigation will be evaluated for successful attainment of the final success criteria, and a decision will be made whether additional mitigation measures are necessary to insure that no net loss of riparian habitat occurs. Reports shall be prepared by a professional consultant with in-depth experience in riparian ecosystem creation and function. Reports shall be submitted to the attention of staff member Cathy Goodwin.

Water Quality Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any discharge from Mitchell/Shiloh/Conde Assessment District Road Improvement Project, (Facility No. 1B04050WNSO) will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)] , and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (enclosed).

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and b) compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on June 2, 2010. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Cathy Goodwin of our staff at (707) 576-2687 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification ___

cc: Ms. Sheryl Schaffner, SWRCB, Office of the Chief Counsel

Mr. Erik Spiess, SWRCB, Office of the Chief Counsel

Mr. Oscar Balaguer, SWRCB, 401 Program Manager, Water Quality Certification Unit

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco, CA 94105

Mr. Dan Logan, National Marine Fisheries Service, 777 Sonoma Avenue, Suite 325, Santa Rosa, CA 95404

Mr. Bill Cox, Department of Fish and Game, Region 3, P.O. Box 47, Yountville, CA 94599

Mr. Dane Schilling, Coastland Engineering, Inc., 1400 Neotomas Avenue, Santa Rosa, CA 95405

Mr. Heidi Utterback, Coastland Engineering, Inc., 1400 Neotomas Avenue, Santa Rosa, CA 95405

Mr. Brian Hines, Trout Unlimited, 1120 College Avenue, Santa Rosa, CA 95404